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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,182	08/08/2001	Satoshi Yoshizawa	16869B-018700US	2345

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EXAMINER

LOVING, JARIC E

ART UNIT	PAPER NUMBER
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2137

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/925,182	Applicant(s) YOSHIZAWA ET AL.	
	Examiner Jaric Loving	Art Unit 2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413).
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This office action is responsive to Applicant's amendment received on October 30, 2006.
2. The 35 USC § 112 rejection has been withdrawn due to Applicant's amendment.
3. Applicant's arguments filed on October 30, 2006 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4 and 14-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Vaid et al., US 6,078,953.

In claim 1, Vaid discloses a system for allocating resources to enable provision of different levels of service for different users of a network having a plurality of nodes at which routers are placed to direct information along various paths, the plurality of nodes including a first node, the system comprising:

a first allocation of resources for the plurality of nodes, the first allocation being made by a first management system external to the plurality of nodes that manages at

least part of the network (col. 2, line 58 – col. 3, line 4; col. 9, line 45 – col. 10, line 22; col. 12, line 35 – col. 13, line 55); and

a second allocation of resources for the first node, the second allocation being a local allocation, the second allocation being made by a second management system having a limited capability compared to the first management system and usable by the first node in accordance with priorities determined at the node (col. 2, line 58 – col. 3, line 4; col. 9, line 45 – col. 10, line 22; col. 12, line 35 – col. 13, line 55; col. 13, line 66 – col. 14, line 4 – second portion applies queuing to information).

In claim 2, Vaid discloses a system as in claim 1 further comprising a flow control table at the node operating under control of the second management system for storing entries which each include:

source addresses representative of at least one source of information arriving at the input port (col. 9, line 66 – col. 10, line 8);

destination addresses representative of at least one of the destinations to which the arriving information is to be sent from the output port (col. 9, line 66 – col. 10, line 8);

priority information for each address consisting of a capability of at least two different priorities for controlling the forwarding of information arriving from the source to the destination (col. 9, line 66 – col. 10, line 8; col. 13, line 66 – col. 14, line 4); and

wherein with the priority information is changeable at the node without reference to the first management system (col. 8, lines 46-51 – priorities can vary; Table 3; col. 10, lines 9-22 – priority changes due to adaptability of the management tool).

In claim 3, Vaid discloses a system as in claim 2 wherein the system includes a router for switching information and a controller coupled to the router for storing the flow control table and controlling the router in response thereto (col. 6, lines 2-33; col. 9, line 66 – col. 10, line 8; col. 11, lines 5-14; col. 12, lines 59-64).

In claim 4, Vaid discloses system as in claim 3 wherein the priority information includes default priority information used to control information which does not otherwise have an entry in the flow control table (col. 8, lines 46-51; Table 3 – a company may have default priorities for different departments).

In claim 14, Vaid discloses in a system for dynamically allocating resources to enable provision of different levels of service for different users of a network having nodes at which routers are placed to direct information along various paths, a method comprising:

allocating a first level of service from a remote source for a plurality of nodes, the plurality of nodes including a first node (col. 3, lines 18-21; col. 9, line 45 – col. 10, line 22; col. 11, lines 30-40 – implementation via ISP can be remote; col. 12, line 35 – col. 13, line 55);

allocating a second level of service from a local source for the first node, the second level of service using resources available from the first level of service (col. 3, lines 18-21; col. 9, line 45 – col. 10, line 22; col. 11, lines 30-40; col. 12, line 35 – col. 13, line 55 – FAIR module takes resources from FAST);

receiving information at an input port from a source (col. 6, lines 1-33; col. 9, line 66 – col. 10, line 8; col. 11, lines 30-40);

storing in a flow control table entries which include source addresses representative of a source of information arriving at the input port, destination addresses representative of a destination to which the arriving information is to be sent, and priority information for each source address, which priority information includes at least two different priorities (col. 9, line 66 – col. 10, line 8; col. 13, line 66 – col. 14, line 4); and forwarding information arriving from the source to the destination address with a priority based upon the priority information in the flow control table (col. 8, lines 46-51; Table 3; col. 9, line 66 – col. 10, line 8).

In claim 15, Vaid discloses a method as in claim 14 wherein the method further comprises using a controller coupled to the router to store the flow control table and controlling the router in response thereto (col. 6, lines 2-33; col. 9, line 66 – col. 10, line 8; col. 11, lines 5-14; col. 12, lines 59-64).

In claim 16, Vaid discloses a method as in claim 15 wherein the method further comprises using default priority information to control arriving information which does not otherwise have an entry in the flow control table (col. 8, lines 46-51; Table 3).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5-13 and 17-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaid and further in view of Mate et al., US 2003/0056001.

In claim 5, Vaid discloses a router with a capacity (col. 4, lines 7-11), but fails to disclose that not all of the capability of the router is allocated by the controller. Mate discloses that not all of the capability of the router is allocated by the controller (abstract; paragraphs [0013], [0038], [0061]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Vaid's system for monitoring quality of service with Mate's method of selective data routing utilizing a router, where not all of its capability is allocated by the controller, to improve control of data transfer. It is for this reason that one of ordinary skill in the art would have been motivated to enable Vaid's system for monitoring quality of service with a router, where not all of its capability is allocated by the controller, because it provides better utilization of network resources and more flexible services by adjusting the quality of service levels (Mate, paragraphs [0003]-[0004]).

In claim 6, Vaid, as modified, discloses a system as in claim 5 wherein the unallocated portion of the capacity is reserved for use as a virtual private network (Mate, abstract; paragraphs [0013], [0038], [0061]).

In claim 7, Vaid, as modified, discloses a system as in claim 6 wherein the controller manages the flow control table using two application program interfaces (Vaid, col. 9, line 57 – col. 10, line 2; col. 12, lines 49-60).

In claim 8, Vaid, as modified, discloses a system as in claim 7 wherein the applications program interfaces include a first one for managing default priority information for a longer term usage, and a second one for managing the remaining

entries of the flow control table for a shorter term usage (Vaid, col. 9, line 57 – col. 10, line 2; col. 12, lines 49-60; col. 13, line 49 – col. 14, line 38).

In claim 9, Vaid, as modified, discloses a system as in claim 8 wherein the first and second applications program interfaces are under control of a network management system (Vaid, col. 3, lines 58-67; col. 9, line 57 – col. 10, line 2; col. 12, lines 49-60).

In claim 10, Vaid, as modified, discloses a system as in claim 9 wherein the network management system is controlled by a network service provider (Vaid, col. 3, lines 58-67).

In claim 11, Vaid, as modified, discloses a system as in claim 9 wherein the first applications program interface is controlled by a network service provider and the second applications program interface is controlled by a provider of the source of information (Vaid, col. 3, lines 58 – col. 4, line 22).

In claim 12, Vaid, as modified, discloses a system as in claim 11 wherein the controller manages the flow control table using a single applications program interface (col. 1, line 60 – col. 2, line 8; col. 5, lines 49-64).

In claim 13, Vaid, as modified, discloses a system as in claim 12 wherein the applications program interface manages default priority information for longer term usage and manages the remaining entries of the flow control table for shorter term usage (Vaid, col. 13, line 49 – col. 14, line 38).

In claim 17, Vaid discloses a router with a capacity (col. 4, lines 7-11), but fails to disclose that not all of the capability of the router is allocated by the controller. Mate

discloses that not all of the capability of the router is allocated by the controller (abstract; paragraphs [0013], [0038], [0061]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Vaid's system for monitoring quality of service with Mate's method of selective data routing utilizing a router, where not all of its capability is allocated by the controller, to improve control of data transfer. It is for this reason that one of ordinary skill in the art would have been motivated to enable Vaid's system for monitoring quality of service with a router, where not all of its capability is allocated by the controller, because it provides better utilization of network resources and more flexible services by adjusting the quality of service levels (Mate, paragraphs [0003]-[0004]).

In claim 18, Vaid, as modified, discloses a method as in claim 17 wherein the method further comprises reserving unallocated capacity of the router for use as a virtual private network (Mate, abstract; paragraphs [0013], [0038], [0061]).

In claim 19, Vaid, as modified, discloses a method as in claim 18 wherein the method further comprises using applications program interfaces to allow the controller to manage the flow control table (Vaid, col. 9, line 57 – col. 10, line 2; col. 12, lines 49-60).

In claim 20, Vaid, as modified, discloses a method as in claim 19 wherein method further comprises using a first applications program interface to manage default priority information for longer term usage, and using a second applications program interface to

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manage remaining entries of the flow control table for shorter term usage (Vaid, col. 9, line 57 – col. 10, line 2; col. 12, lines 49-60; col. 13, line 49 – col. 14, line 38).

In claim 21, Vaid, as modified, discloses a method as in claim 20 further comprising using a network management system to control the first and second applications program interfaces (Vaid, col. 3, lines 58-67; col. 9, line 57 – col. 10, line 2; col. 12, lines 49-60).

In claim 22, Vaid, as modified, discloses a method as in claim 21 further comprising using a network service provider to control the network management system (Vaid, col. 3, lines 58-67).

In claim 23, Vaid, as modified, discloses a method as in claim 22 further comprising using a network service provider to control the first applications program interface and using a provider of the source of information to control the second applications program interface (Vaid, col. 3, lines 58 – col. 4, line 22).

In claim 24, Vaid, as modified, discloses a method as in claim 23 further comprising using a single applications program interface to manage the flow control table (col. 1, line 60 – col. 2, line 8; col. 5, lines 49-64).

In claim 25, Vaid, as modified, discloses a method as in claim 24 further comprising using the applications program interface to manages default priority information for longer term usage and using the remaining entries of the flow control table to manage for shorter term usage (Vaid, col. 9, line 57 – col. 10, line 2; col. 12, lines 49-60; col. 13, line 49 – col. 14, line 38).

Response to Arguments

8. Regarding claims 1-25, Applicant basically argues the Vaid reference is inapplicable to claims 1 and 14. Applicant further argues the Mate reference does not apply to claims 5-13 and 17-25 for failing to disclose the limitations in claims 1 and 14 and therefore the remaining claims are allowable.

As to claim 1, Applicant argues "Vaid... does not disclose at least two allocations with two network management systems" and "Vaid... fails to disclose network management systems (or modules) that operate on different network levels." Examiner contends Vaid discloses both features. First, in col. 2, line 58 – col. 3, line 4, Vaid describes a network that controls data flow by allocating at least two portions. In col. 9, lines 45-65, Vaid describes using different management tools that may be installed on not only a server, but also any network node. Thus, a given resource allocation has a network management system. On the second argument, Examiner again refers to col. 9, lines 45-65, since the management systems may operate on a server or any network node. Further, in col. 10, lines 11-15, Vaid states that network management can adapt based on change of network infrastructure. Therefore, the management system does work on different network levels.

Claims 3-4 follow the same reasoning as claim 1.

Claim 14 presents arguments similar to claim 1 and therefore follow the same reasoning discussed above.

Claims 15-16 follow the same reasoning as claim 1.

As to claims 5-13 and 17-25, Applicant argues that Mate does not disclose the limitations that were presented with respect to claim 1. Examiner has already argued

the validity of the Vaid reference above. The Mate reference was not cited for teaching the elements of claim 1, but for the respective limitations in the dependent claims for which it was applied.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jaric Loving whose telephone number is (571) 272-1686. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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